

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: :  
Yukio Yamaji et al. : Confirmation No.: 6232  
Application No. 10/528,228 : TC/Art Unit: 1733  
Filed : March 18, 2005 : Examiner :Steven Maki  
For : APPARATUS AND METHOD : Atty Docket :P70312US0  
FOR FRACTIONATING GYPSUM  
SLURRY AND METHOD OF  
PRODUCING GYPSUM BOARD

DECLARATION UNDER 37 C.F.R. 1.132

Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450  
Sir:

I, Yoshihiko SHIMAZOE, declare as follows:

I am a Japanese patent attorney and an architect licensed by the Japanese government. In 1994, I prepared and wrote a specification and claims of Japanese patent application No. 6-164052 (referred to as "JP 6-164052" hereinafter) on behalf of Yoshino Gypsum Co., Ltd.. I also prepared a rough draft of the drawings for JP 6-164052 and asked my colleague to draft a set of formal drawings to be filed with the Japanese Patent Office, with use of computer software. The drawings were made by Japanese software named "Liner Note", a kind of CAD software.

In 1999, I prepared and wrote a specification and claims of Japanese patent application No. 11-76848 of Miura et al (referred to as "JP 11-76848" hereinafter) on behalf of Yoshino Gypsum Co., Ltd., and drafted a set of formal drawings to be filed with the Japanese Patent Office, with use of the same software, by myself.

The specification and claims of JP 11-76848 were prepared and written with reference to those of JP 6-164052, and the drawings of JP 11-76848 were made by revising or reforming CAD data of the drawings of JP 6-164052. Japanese Patent Laid-Open Publication No.8-25342, which was a laid-open publication of JP 11-76848, was recited in the specification as a closest prior art. In preparation of the specification, claims and drawings of JP 11-76848, however, description and depiction of a device and a method for fractionating slurry were omitted from the specification, claims and drawings. This was simply because the gist of the invention of JP 11-76848 was improvement of a pin configuration and therefore, explanation of the fractionation of slurry did not relate to the invention of JP 11-76848 and it was considered to be unnecessary.

The application of USP No. 6, 193,408 (Miura et al) was filed in the U.S.A., claiming the priority of JP 11-76848. The specification, claims and drawings of USP No. 6, 193,408 were based on an English translation of those of JP 11-76848, and disclosure of USP No. 6, 193,408 is almost the same as that of JP 11-76848.

I further declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful and false statements and the like so made are punishable by fine or imprisonment, or both, under Selection 1001 of Title 18 of the United State Code, and that such willful, false statements may jeopardize the validity of the application or any patent issuing thereon.

FURTHER, DECLARANT SAYETH NOT.

Date: August 19, 2009

Name: 

Yoshihiko SHIMAZOE